

(a) All fees which are collected during the quarter under the title IV-D State plan; and

(b) All interest and other income earned during the quarter resulting from services provided under the IV-D State plan.

[49 FR 36772, Sept. 19, 1984]

#### § 304.95 [Reserved]

### PART 305—AUDIT AND PENALTY

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AUTHORITY: 42 U.S.C. 603(h), 604(d), 652(a)(1), (4) and (g), and 1302.

SOURCE: 41 FR 55348, Dec. 20, 1976, unless otherwise noted.

#### § 305.0 Scope.

This part implements the requirements in sections 452(a)(4) and 403(h) of the Act for an audit, at least once every three years, of the effectiveness of State Child Support Enforcement programs under title IV-D and for a possible reduction in Federal reimbursement for a State's title IV-A program pursuant to sections 403(h) and 404(d) of the Act. Sections 305.10 through 305.13 describe the audit. Section 305.20 sets forth audit criteria and subcriteria the Office will use to determine program effectiveness and defines an effective program for purposes of an audit. Section 305.98 sets forth the performance indicators the Office will use to determine State IV-D program effectiveness. Section 305.99 provides for the issuance of a notice and corrective action period if a State is found by the Secretary not to have an effective IV-D program. Section 305.100 provides for the imposition of a penalty if a State is found by the Secretary not to have had an effective program and to have failed

to take corrective action and achieve substantial compliance within the period prescribed by the Secretary.

[59 FR 66251, Dec. 23, 1994]

#### § 305.1 Definitions.

The definitions found in § 301.1 of this chapter are also applicable to this part.

[59 FR 66251, Dec. 23, 1994]

#### § 305.10 Timing and scope of audit.

(a) The Office will conduct an audit in accordance with sections 452(a)(4) and 403(h) of the Act, at least once every three years, to evaluate the effectiveness of each State's program in carrying out the purposes of title IV-D of the Act and to determine that the program meets the title IV-D requirements. The audit of each State's program will be a comprehensive review using the criteria prescribed in §§ 305.20 and 305.98 of this part.

(b) The Office will conduct an annual comprehensive audit in the case of a State that is being penalized. For a State operating under a corrective action plan, the review at the end of the corrective action period will cover only the criteria specified in the notice of non-compliance as prescribed in § 305.99 of this part.

(c) During the course of the audit, the Office will:

(1) Make a critical investigation of the State's IV-D program through inspection, inquiries, observation, and confirmation; and

(2) Use the audit standards promulgated by the Comptroller General of the United States in "Government Auditing Standards."

[50 FR 40140, Oct. 1, 1985; 50 FR 49392, Dec. 2, 1985, as amended at 59 FR 66252, Dec. 23, 1994]

#### § 305.11 Audit period.

The audit will cover a period comprised of any 12 consecutive months. When the State is operating under a corrective action plan, the review will cover the first three-month period after the corrective action period. When the State fails to meet audit criteria related to the performance indicator under § 305.98 of this part, the review will cover the first full four quarters following the end of the corrective action period. The audit may, at State

request, be conducted prior to the end of the one-year period prescribed under § 305.10(b) of this part when the State is being penalized under § 305.100 of this part.

[55 FR 8467, Mar. 8, 1990]

**§ 305.12 State comments.**

(a) Prior to the start of the actual audit, the Office will hold an audit entrance conference with the IV-D agency. At that conference, the Office will explain how the audit will be performed and make any necessary arrangements.

(b) Prior to concluding the audit fieldwork, the Office will afford the State IV-D agency an opportunity for an audit exit conference at which time preliminary audit findings will be discussed and the IV-D agency may present any additional matter it believes should be considered in the audit findings.

(c) At the conclusion of the audit fieldwork, the Office will prepare and send to the IV-D agency a copy of its interim report on the results of the audit. Within 45 days from the date the report was sent by certified mail, the IV-D agency may submit written comments on any part of the report which the IV-D agency believes to be in error. The Office will incorporate such comments, if any, into the final audit report.

[41 FR 55348, Dec. 20, 1976, as amended at 59 FR 66252, Dec. 23, 1994]

**§ 305.13 State cooperation in annual audit.**

(a) Each State shall make available to the Office such records or other supporting documentation as the Office's audit staff may request. The State shall also make available personnel associated with the State's IV-D program to provide answers which the audit staff may find necessary in order to conduct or complete the audit.

(b) Failure to comply with the requirements of this section may necessitate a finding that the State has failed to comply with the particular criteria being audited.

**§ 305.20 Effective support enforcement program.**

For the purposes of this part and section 403(h) of the Act, in order to be found to have an effective program in substantial compliance with the requirements of title IV-D of the Act:

(a) For any audit period which begins on or after December 23, 1994, a State must meet the IV-D State plan requirements contained in part 302 of this chapter measured as follows:

(1) The State must meet the requirements under the following criteria:

(i) Statewide operations, § 302.10;

(ii) Reports and maintenance of records, § 302.15(a);

(iii) Separation of cash handling and accounting functions, § 302.20; and

(iv) Notice of collection of assigned support, § 302.54.

(2) The State must have and use procedures required under the following criteria in at least 90 percent of the cases reviewed for each criterion:

(i) Establishment of cases, § 303.2(a); and

(ii) Case closure criteria, § 303.11.

(3) The State must have and use procedures required under the following criteria in at least 75 percent of the cases reviewed for each criterion:

(i) Collection and distribution of support payments, including: Collection and distribution of support payments by the IV-D agency under § 302.32(b) and (f); distribution of support collections under § 302.51; and distribution of support collected in title IV-E foster care maintenance cases under § 302.52;

(ii) Establishment of paternity and support orders, including: Establishment of a case under § 303.2(b); services to individuals not receiving AFDC or title IV-E foster care assistance, under § 302.33(a)(1) through (4); provision of services in interstate IV-D cases under § 303.7(a), (b) and (c)(1) through (6) and (8) through (10); location of non-custodial parents under § 303.3; establishment of paternity under § 303.5(a) and (f); guidelines for setting child support awards under § 302.56; and establishment of support obligations under § 303.4(d), (e) and (f);

(iii) Enforcement of support obligations, including, in all appropriate cases: Establishment of a case under